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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PLANNED PARENTHOOD FEDERATION OF
AMERICA, INC., et al.,

Plaintiffs,

v.

CENTER FOR MEDICAL PROGRESS; et al.,

Defendants.

Case No. 3:16-cv-00236-WHO

**DECLARATION OF MATTHEW R.
DITON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND NON-
STATUTORY COSTS**

Date: November 18, 2020
Time: 2:00 p.m.
Place: Courtroom 2, 17th Floor
Judge: Hon. William H. Orrick

1 I, Matthew R. Diton, declare:

2 1. I am an attorney admitted to practice in the State of California and before this Court.
3 I am an associate at the law firm of Arnold & Porter Kaye Scholer LLP (“Arnold & Porter”), and an
4 attorney for Plaintiffs Planned Parenthood Federation of America, Inc.; Planned Parenthood Gulf
5 Coast; Planned Parenthood Center for Choice, Planned Parenthood of the Rocky Mountains;
6 Plaintiff Planned Parenthood: Shasta-Diablo, Inc. dba Planned Parenthood Northern California;
7 Planned Parenthood Mar Monte, Inc.; Planned Parenthood of the Pacific Southwest; Planned
8 Parenthood Los Angeles; Planned Parenthood Orange and San Bernardino Counties, Inc.; Planned
9 Parenthood of California Central Coast; Planned Parenthood Pasadena and San Gabriel Valley, Inc.
10 (collectively “Plaintiffs”) in the above-captioned action. I make this Declaration upon personal
11 knowledge, excepted as otherwise stated, and, if called upon to testify, could and would testify
12 competently hereto.

13 2. I have been practicing law for more than five years. I graduated *magna cum laude*
14 from the Duke University School of Law in 2015. While in law school, I became a member of the
15 Order of the Coif. Prior to law school, I received my Bachelor of Arts with high distinction from
16 the University of Virginia in 2012.

17 3. I joined Arnold & Porter in 2015. Since then, I have represented companies in
18 numerous complex litigation matters in federal and state court, focusing primarily on employment
19 matters. My customary hourly rate at Arnold & Porter was \$500 in 2017, \$605 in 2018, \$700 in
20 2019, and is \$815 in 2020.

21 4. I first joined Plaintiffs’ litigation team in February 2017. Throughout the course of
22 the matter, I have handled many roles. I have attempted to summarize my primary duties below;
23 however, there were many tasks I completed that are not discussed in detail. For example, I
24 undertook discrete research assignments to help other team members draft pleadings in response to
25 Defendants’ motion to disqualify the Court.

26 5. During discovery, I drafted numerous responses to written discovery requests. I also
27 drafted and led Plaintiffs’ efforts to subpoena documents and information from nonparty Operation
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1 Rescue, including participating in meet-and-confer telephone conferences with opposing counsel.
2 I also organized and led the firm's review of all of Defendants' undercover video and audio
3 recordings. As part of this process, I drafted a training memorandum for the reviewing attorneys,
4 led a training session for the reviewing attorneys, drafted a review protocol, drafted and distributed
5 review assignments to over 25 attorneys across the firm, reviewed the reviewers' work product,
6 and drafted summaries of the video reviews for use in Plaintiffs' summary judgment papers and at
7 trial. I was also part of the team that reviewed documents for privilege and responsiveness in
8 response to Defendants' discovery requests.

9 6. I also participated in various aspects of discovery motion practice. For example, I
10 researched and helped draft Plaintiffs' brief regarding whether Defendant Daleiden could be
11 deposed twice (once as a 30(b)(6) witness and a second time in his personal capacity). This motion
12 was granted. I also argued a portion of a motion to compel before Judge Ryu.

13 7. I also participated in numerous depositions. I helped prepare Plaintiff PPMM's,
14 PCCCC's, and PPPSGV's Rule 30(B)(6) witnesses for their depositions, and I defended the
15 PPMM's and PPPSGV's Rule 30(B)(6) depositions.

16 8. In total, I spent approximately 394.1 hours on the discovery phase of the litigation.

17 9. After discovery, I was part of the team responsible for drafting sections of Plaintiffs'
18 affirmative and responsive summary judgment papers. In particular, I was assigned as the lead
19 drafter of the various sections of the briefs regarding Plaintiffs' breach of contract claims. I also
20 drafted sections of the papers detailing Plaintiffs' invasion of privacy claims. I was also part of the
21 team who attended the summary judgment hearing and, had the Court requested argument on the
22 breach of contract sections, I would have been the one to argue those issues.

23 10. In total, I spent approximately 95.2 hours on the summary judgment phase of the
24 litigation.

25 11. Although I was not part of the trial team, I assisted with the research and drafting of
26 various trial and trial preparation submissions. For example, I reviewed and drafted objections to a
27 number of Defendants' deposition designations. I also researched law regarding the use of
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1 deposition transcripts at trial for use by the trial team, and drafted oppositions to several of
2 Defendants' motions *in limine*. I also was responsible for preparing charts of video clips from
3 Defendants' recording for use in cross-examination by the trial team. I also participated in the prep
4 sessions for witnesses Jenna Tosh (PPCCC) and Sheri Bonner (PPPSGV). Finally, I helped draft
5 sections of the cross-examination outline for Daleiden.

6 12. In total, I spent approximately 40.9 hours on the pre-trial phase of the litigation, and
7 approximately 31.3 hours on the trial phase of the litigation.

8 13. After the trial, I was responsible for researching and drafting numerous post-trial
9 submissions. For example, I was the lead drafter of both (i) Plaintiffs' opposition to Defendants'
10 motion to defer a decision on attorneys' fees and costs until after Defendants exhausted their
11 appeal and (ii) Plaintiffs' opposition to Defendants' motion to lower the bond amount.

12 14. I was also a part of the team responsible for drafting Plaintiffs' opposition to
13 Defendants' post-trial motions. In particular, I was responsible for drafting responses to (i)
14 Defendant Rhomberg's sections of the post-trial brief and (ii) Defendants' arguments regarding
15 Plaintiffs' entitlement to punitive damages.

16 15. In total, I spent approximately 74.2 hours on the post-trial phase of the litigation.

17 16. Following Plaintiffs' response to Defendants' post-trial motions, I was responsible
18 for researching and drafting the initial draft of Plaintiffs' motion for attorneys' fees and non-
19 statutory costs and supporting memorandum.

20 17. In total, as of September 4, 2020, I have spent approximately 29.6 hours in support
21 of Plaintiffs' request for attorneys' fees and costs.

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1 18. It is my habit to use the firm's online billing system to record my time on a daily
2 basis. I have personally reviewed all of my contemporaneous time records from this action to
3 assist with the preparation of this declaration. In my billing judgment, I have requested that certain
4 time entries be removed from Plaintiffs' request for attorneys' fees. For example, I have requested
5 that my entries for observing depositions that I did not defend and for observing trial days and
6 hearings be removed from the request.

7 I declare until penalty of perjury that the foregoing is true and correct. Executed in
8 Alameda, California this 18th day of September, 2020.

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12 MATTHEW R. DITON
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